

## **Part 5**

### **Miscellaneous Provisions**

#### **70A-4a-501 Variation by agreement and effect of funds transfer system rule.**

- (1) Except as otherwise provided in this chapter, rights and obligations of a party to a funds transfer may be varied by agreement of the affected party.
- (2)
  - (a) "Funds transfer system rule" means a rule of an association of banks:
    - (i) governing transmission of payment orders by means of a funds transfer system of the association or rights and obligations with respect to those orders; or
    - (ii) to the extent the rule governs rights and obligations between banks that are parties to a funds transfer in which a Federal Reserve Bank, acting as an intermediary bank, sends a payment order to the beneficiary's bank.
  - (b) Except as otherwise provided in this chapter, a funds transfer system rule governing rights and obligations between participating banks using the system may be effective even if the rule conflicts with this chapter and indirectly affects another party to the funds transfer who does not consent to the rule. A funds transfer system rule may also govern rights and obligations of parties other than participating banks using the system to the extent stated in Subsection 70A-4a-404(3), Subsection 70A-4a-405(4), and Subsection 70A-4a-507(3).

Amended by Chapter 237, 1993 General Session

#### **70A-4a-502 Creditor process served on receiving bank -- Setoff by beneficiary's bank.**

- (1) As used in this section, "creditor process" means levy, attachment, garnishment, notice of lien, sequestration, or similar process issued by or on behalf of a creditor or other claimant with respect to an account.
- (2) This subsection applies to creditor process with respect to an authorized account of the sender of a payment order if the creditor process is served on the receiving bank. For the purpose of determining rights with respect to the creditor process, if the receiving bank accepts the payment order the balance in the authorized account is deemed to be reduced by the amount of the payment order to the extent the bank did not otherwise receive payment of the order, unless the creditor process is served at a time and in a manner affording the bank a reasonable opportunity to act on it before the bank accepts the payment order.
- (3) If a beneficiary's bank has received a payment order for payment to the beneficiary's account in the bank the rules listed in Subsections (4) through (6) apply.
- (4) The bank may credit the beneficiary's account and the amount credited may be set off against an obligation owed by the beneficiary to the bank or may be applied to satisfy creditor process served on the bank with respect to the account.
- (5) The bank may credit the beneficiary's account and may allow withdrawal of the amount credited unless creditor process with respect to the account is served at a time and in a manner affording the bank a reasonable opportunity to act to prevent withdrawal.
- (6) If creditor process with respect to the account has been served and the bank has had a reasonable opportunity to act on it, the bank may not reject the payment order except for a reason unrelated to the service of process.
- (7) Creditor process with respect to a payment by the originator to the beneficiary pursuant to a funds transfer may be served only on the beneficiary's bank with respect to the debt owed by

that bank to the beneficiary. Any other bank served with the creditor process is not obliged to act with respect to the process.

Amended by Chapter 237, 1993 General Session

**70A-4a-503 Injunction or restraining order with respect to funds transfer.**

- (1) For proper cause and in compliance with applicable law, a court may restrain:
  - (a) a person from issuing a payment order to initiate a funds transfer;
  - (b) an originator's bank from executing the payment order of the originator; or
  - (c) the beneficiary's bank from releasing funds to the beneficiary or the beneficiary from withdrawing the funds.
- (2) A court may not otherwise restrain a person from issuing a payment order, paying or receiving payment of a payment order, or otherwise acting with respect to a funds transfer.

Enacted by Chapter 294, 1990 General Session

**70A-4a-504 Order in which items and payment orders may be charged to an account -- Order of withdrawals from an account.**

- (1) If a receiving bank has received more than one payment order of the sender or one or more payment orders and other items that are payable from the sender's account, the bank may charge the sender's account with respect to the various orders and items in any sequence.
- (2) In determining whether a credit to an account has been withdrawn by the holder of the account or applied to a debt of the holder of the account, credits first made to the account are first withdrawn or applied.

Enacted by Chapter 294, 1990 General Session

**70A-4a-505 Preclusion of objection to debit of customer's account.**

If a receiving bank has received payment from its customer with respect to a payment order issued in the name of the customer as sender and accepted by the bank, and the customer received notification reasonably identifying the order, the customer is precluded from asserting that the bank is not entitled to retain the payment unless the customer notifies the bank of the customer's objection to the payment within one year after the notification was received by the customer.

Enacted by Chapter 294, 1990 General Session

**70A-4a-506 Rate of interest.**

- (1) If, under this chapter, a receiving bank is obliged to pay interest with respect to a payment order issued to the bank, the amount payable may be determined:
  - (a) by agreement of the sender and receiving bank; or
  - (b) if the payment order is transmitted through a funds transfer system, by a funds transfer system rule.
- (2) If the amount of interest is not determined by an agreement or rule as stated in Subsection (1), the amount is calculated by multiplying the applicable Federal Funds rate by the amount on which interest is payable, and then multiplying the product by the number of days for which interest is payable. The applicable Federal Funds rate is the average of the Federal Funds rates published by the Federal Reserve Bank of New York for each of the days for which

interest is payable divided by 360. The Federal Funds rate for any day on which a published rate is not available is the same as the published rate for the next preceding day for which there is a published rate. If a receiving bank that accepted a payment order is required to refund payment to the sender of the order because the funds transfer was not completed, but the failure to complete was not due to any fault by the bank, the interest payable is reduced by a percentage equal to the reserve requirement on deposits of the receiving bank.

Amended by Chapter 237, 1993 General Session

**70A-4a-507 Choice of law.**

- (1) The following rules apply unless the affected parties otherwise agree or Subsection (3) applies:
  - (a) The rights and obligations between the sender of a payment order and the receiving bank are governed by the law of the jurisdiction in which the receiving bank is located.
  - (b) The rights and obligations between the beneficiary's bank and the beneficiary are governed by the law of the jurisdiction in which the beneficiary's bank is located.
  - (c) The issue of when payment is made pursuant to a funds transfer by the originator to the beneficiary is governed by the law of the jurisdiction in which the beneficiary's bank is located.
- (2) If the parties described in Subsections (1)(a), (b), and (c) have made an agreement selecting the law of a particular jurisdiction to govern rights and obligations between each other, the law of that jurisdiction governs those rights and obligations, whether or not the payment order or the funds transfer bears a reasonable relation to that jurisdiction.
- (3)
  - (a) A funds transfer system rule may select the law of a particular jurisdiction to govern:
    - (i) rights and obligations between participating banks with respect to payment orders transmitted or processed through the system; or
    - (ii) the rights and obligations of some or all parties to a funds transfer, any part of which is carried out by means of the system.
  - (b) A choice of law made pursuant to Subsection (3)(a)(i) is binding on participating banks. A choice of law made pursuant to Subsection (3)(a)(ii) is binding on the originator, other sender, or a receiving bank having notice that the funds transfer system might be used in the funds transfer and of the choice of law by the system when the originator, other sender, or receiving bank issued or accepted a payment order. The beneficiary of a funds transfer is bound by the choice of law if, at the time the funds transfer is initiated, the beneficiary has notice that the funds transfer system might be used in the funds transfer and of the choice of law by the system. The law of a jurisdiction selected pursuant to this Subsection (3) may govern whether or not that law bears a reasonable relation to the matter in issue.
- (4) In the event of inconsistency between an agreement under Subsection (2) and a choice of law rule under Subsection (3), the agreement under Subsection (2) prevails.
- (5) If a funds transfer is made by use of more than one funds transfer system and there is inconsistency between choice of law rules of the systems, the matter in issue is governed by the law of the selected jurisdiction that has the most significant relationship to the matter in issue.

Amended by Chapter 324, 2010 General Session